

IN THE  
UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
DANVILLE DIVISION

UNITED STATES OF AMERICA,                          )  
  )  
Plaintiff,    )  
  )  
v.   )    Criminal No. 4:18-CR-00011  
  )  
ASHLEY TIANA ROSS,                                    )  
  )  
Defendant.    )

**MEMORANDUM IN OPPOSITION TO UNITED STATES' MOTION REGARDING**  
**JURY COMPOSITION**

Defendant Ashley Tiana Ross, by counsel, opposes the United States' motion regarding jury composition (ECF 383), and as grounds therefore states as follows.

The United States has filed a motion "to use a *venire* comprised [sic] of potential jurors from the Roanoke Division." *Id.*, at 1. Ross opposes the request because it is, simply put, a transparent attempt by the United States to try Ross and the other African-American defendants by an all-white jury.

The United states properly notes on brief that the crimes alleged "occurred in Danville" and offers that the "United States believes that the citizens of Danville should have the right to speak on and judge the defendants through their participation on two federal juries." *Id.*, at 3. And the United States notes that the "Sixth Amendment and the Due Process Clause of the Fifth Amendment *require* that a jury be drawn 'from a fair cross section of the community,'" *Id.*, at 3, quoting *Duren v. Missouri*, 439 U.S. 357, 363-64 (1979); *Taylor v. Louisiana*, 419 U.S. 522, 527 (1975)[Emphasis added].

But, Roanoke is not Danville. The elephant in the room is that *all* of the defendants are African-American, and if this case is tried before a jury drawn from the Roanoke Division, the overwhelming odds are that all of the jurors will be white.

The demographics of the region bear this out. The demographics of Southwest Virginia Community College, for example, are reflective generally of the demographics of much of southwest Virginia. According to <https://www.collegesimply.com/colleges/virginia/southwest-virginia-community-college/students> (visited April 10, 2019), “students at Southwest Virginia Community College are **almost exclusively White** with a small Black population,” and the school has “**extremely low racial diversity**” [Emphasis in original]. The report lists the following demographics,

Race	Percent of Students
White	95%
Black	1%
Hispanic	1%
Asian	0%
American Indian / Alaskan	1%
Hawaiian / Pacific Islander	0%
Two or more races	1%
International	0%
Race Unknown	0%.

In contrast, the demographics of Danville are quite different. According to a recent United States Census, approximately half of the residents of the City of Danville are African-American,

### Race and Hispanic Origin

White alone	45.8%
Black or African American alone	50.8%
American Indian and Alaska Native alone	0.4%
Asian alone	1.2%
Native Hawaiian and Other Pacific Islander alone	0.1%

Two or more Races	1.7%
Hispanic or Latino alone	4.4%
White alone, not Hispanic or Latino	42.5%.

See, <https://www.census.gov/quickfacts/fact/table/danvillecityvirginiacounty/PST045217>

(visited April 10, 2019). Admittedly, the Danville Division comprises more than the city of Danville, but those statistics are equally telling. According to the Virginia Department of Health, the demographics of the Danville region, which comprises the cities of Danville and Martinsville, the town of Halifax, and Henry, Patrick, Charlotte counties, are as follows,

Danville/Pittsylvania health district

33.8% Black  
65.0% White

West Piedmont health district

17.5% Black  
81.4% White

Piedmont health district

33.2% Black  
65.6% White

Southside health district

42.0% Black  
58.6% White.

See, [www.vdh.virginia.gov](http://www.vdh.virginia.gov) (visited April 10, 2019).

Anecdotally, the undersigned has tried countless cases before juries in the western district of Virginia for 35 years. Typically, there may be one or two Black persons among the venire, and there are sometimes none. The Court may draw upon its own knowledge and experience and take judicial notice of the same. The United States notes on brief that this case is “technically a Danville Division case” (ECF 383, at 2). The designation is more than “technical”—this *is* a Danville case. This is not a case where drugs or guns were moved into or out of area or across state lines. Here, *all* of the conduct alleged occurred in Danville; the defendants are from

Danville; and likely most of the witnesses will be from Danville. Ross agrees therefore with the United States that “the citizens of Danville should have the right to speak on and judge the defendants through their participation on two federal juries” (ECF 383, at 3). If there are logistic issues or costs associated with that effort, those must be borne by the charging party, the United States. While acknowledging the “hardship” and “burden” referenced by the United States (ECF 383, at 4), the Constitution more than what is requested by the United States on brief. The Constitution requires that this case be heard by jurors chosen from in and around Danville.

WHEREFORE, defendant Ashley Tiana Ross, by counsel, requests entry of an order denying the motion.

Respectfully submitted,

ASHLEY TIANA ROSS

By /s/Terry N. Grimes  
Of Counsel

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#### **CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document was electronically filed with the Clerk of the Court using the CM/ECF system, and that a true and accurate copy of the foregoing was sent via the CM/ECF system to all counsel of record, on the 10th day of April, 2019.

/s/ Terry N. Grimes  
Terry N. Grimes